

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ANGELA LYONS,

Plaintiff,

:

Case No. 3:11-cv-408

-vs-

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

:

UNITED STATES POSTAL SERVICE,
et al.,

Defendants.

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's Application to Proceed *in forma pauperis* (Doc. No. 3). The Application was filed in response to Judge Rose's Order to Show Cause (Doc. No. 2), which was intended to correct Plaintiff's mistake in filing the case without either paying the required \$350 filing fee or first obtaining leave to proceed *in forma pauperis*.

Plaintiff's Application does not show that she is unable to pay the filing fee. While she has substantial monthly expenses and has been unemployed since the end of April, she has \$35,000 in cash on hand.

Plaintiff has now dismissed the case without prejudice, but the \$350 is a true filing fee – not a deposit against costs. Plaintiff should therefore be required to pay the \$350, even though the case has been dismissed because she has in fact filed the case, the event which triggers the liability for the fee.

December 9, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).